

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2465

By: Hill

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2021, Section 1105.2, which relates to the
9 Pretrial Release Act; updating statutory references;
10 modifying bail procedures for arrested persons;
11 requiring bond hearing within certain time following
12 arrest; allowing certain persons to be released on
13 own recognizance bonds; directing courts to set the
14 least restrictive conditions; allowing for the
15 postponement of releasing certain arrested persons;
16 providing for representation at hearings; providing
17 exemption from time limitation; allowing sheriffs and
18 other peace officers to take bail under certain
19 circumstances; prohibiting persons arrested for
20 specific crimes from participating in pretrial
21 release program; directing certain persons to use
22 pretrial bail schedule for setting bail; and
23 providing an effective date.
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18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1105.2, is
20 amended to read as follows:

21 Section 1105.2 A. Following an arrest for a misdemeanor or
22 felony offense ~~and before formal charges have been filed or an~~
23 ~~indictment made~~, the arrested person ~~may~~ shall have bail set by the
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1 court as provided in ~~this act~~ the Pretrial Release Act; provided
2 there are no provisions of law to the contrary.

3 B. ~~When formal charges or an indictment has been filed, bail~~
4 ~~shall be set according to law and the pretrial bond, if any, may be~~
5 ~~reaffirmed unless additional security is required. If not otherwise~~
6 released, the arrested person shall be taken without unnecessary
7 delay before the most accessible magistrate in that county for a
8 bond hearing. Except where prohibited by law, in no case shall the
9 delay from arrest to bond hearing be more than forty-eight (48)
10 hours after the arrest of the person. Except for cases where the
11 arrested person is charged or being held on a probable cause warrant
12 for an offense listed in subsection F of this section, if the
13 arrested person is unable to obtain a surety for the bond or is
14 unable to deposit money in the amount of the bond, the person may be
15 released pursuant to an own recognizance bond. In all cases, the
16 court shall set the least restrictive conditions necessary to
17 reasonably assure the appearance of the person.

18 C. Except for good cause, on the filing of an application by
19 the district attorney, a judge may hold a hearing to postpone the
20 release of the arrested person pursuant to subsection B of this
21 section for not more than seventy-two (72) hours after the arrest of
22 the person. The person shall have the right to be represented by
23 counsel and, if financially unable to obtain adequate
24 representation, to have counsel appointed for the limited purpose of

1 the hearing. In counties served by the Oklahoma Indigent Defense
2 System, attorneys employed by or contracted with the Oklahoma
3 Indigent Defense System may be appointed pursuant to the provisions
4 of Section 1355A of this title to represent the person. If the
5 court finds that the presence of counsel at the hearing is
6 impractical it may be conducted via telephone conference or video
7 call.

8 D. The time limit imposed pursuant to subsection B of this
9 section shall not apply to a person arrested and taken to a
10 hospital, clinic, or other medical facility before making an
11 appearance before the judge. For a person described by this
12 subsection, the time limit imposed pursuant to subsection B of this
13 section starts at the time a physician or other medical professional
14 releases the person from the hospital, clinic, or medical facility,
15 as documented in the records of the hospital, clinic, or medical
16 facility.

17 E. If the court is not in session in the county where the
18 arrested person is in custody, the sheriff or other peace officer
19 who has the arrested person in custody may take the bail of the
20 person in the amount set forth in the pretrial bail schedule or, if
21 no amount has been set, the sheriff or other peace officer shall
22 release the person on the least restrictive conditions which may
23 include the personal bond, cash bond, or surety bond necessary to
24 reasonably ensure the appearance of the person in court and the

1 safety of the public, or Global Positioning System (GPS) monitoring,
2 or a combination of the two. If the person is unable to obtain a
3 surety for the bond or is unable to deposit money in the amount of
4 the bond, the person may be released on an own recognizance bond.

5 F. The provisions set forth in this section shall not apply to
6 persons arrested for the following violations:

7 1. An ex parte or final protective order as provided in
8 Sections 60.2 and 60.3 of this title, an act constituting domestic
9 abuse, as provided for in Sections 644, 645 and 647 of Title 21 of
10 the Oklahoma Statutes, or an act of stalking or harassment, as
11 provided for in Section 1173 of Title 21 of the Oklahoma Statutes;

12 2. A violation of subsection G of Section 2-401 of Title 63 of
13 the Oklahoma Statutes relating to manufacturing or attempting to
14 manufacture a controlled dangerous substance, or possessing any of
15 the substances listed in subsection G of Section 2-401 of Title 63
16 of the Oklahoma Statutes with the intent to manufacture a controlled
17 dangerous substance;

18 3. A capital offense when the proof of guilt is evident, or the
19 presumption thereof is great;

20 4. A violent offense as provided for in Section 571 of Title 57
21 of the Oklahoma Statutes;

22 5. A kidnapping offense as provided for in Section 741 of Title
23 21 of the Oklahoma Statutes; and

1 6. A felony offense involving escape or attempt to escape from
2 lawful arrest or confinement as provided for in Section 434, 436,
3 443 or 444 of Title 21 of the Oklahoma Statutes.

4 G. Every judicial district may, upon the order of the presiding
5 judge for the district, establish a pretrial bail schedule for use
6 by the sheriff or other peace officer of the detention facility to
7 set bail prior to the initial appearance of the person before a
8 court for felony or misdemeanor offenses, except for traffic. Any
9 such pretrial bail schedule shall not apply to traffic offenses
10 included in subsections B, C and D of Section 1115.3 of ~~Title 22 of~~
11 ~~the Oklahoma Statutes~~ this title and those offenses specifically
12 excluded herein. The bail schedule established pursuant to the
13 authority of ~~this act~~ the Pretrial Release Act shall exclude any
14 offense for which bail is not allowed by law. The bail schedule
15 authorized by ~~this act~~ the Pretrial Release Act shall be set in
16 accordance with guidelines relating to bail and shall be published
17 and reviewed by March 1 of each year by the courts and district
18 attorney of the judicial district.

19 ~~G.~~ H. The pretrial bail shall be set in a numerical dollar
20 amount. If the person fails to appear in court as required the
21 judge shall:

22 1. Rescind the bond and proceed to enter a judgment against the
23 defendant for the dollar amount of the pretrial bail if no private
24 bail was given at the time of release; provided, however, the court

1 clerk shall follow the procedures as set forth in Section 1301 et
2 seq. of Title 59 of the Oklahoma Statutes in collecting the
3 forfeiture amount against the person who fails to appear in court;
4 or

5 2. Rescind and forfeit the private bail if cash, property or
6 surety bail was furnished at the time of release as set forth in
7 Section 1301 et seq. of Title 59 of the Oklahoma Statutes.

8 ~~D.~~ I. When a pretrial program exists in the judicial district
9 where the person is being held, the judge may utilize the services
10 of the pretrial release program when ordering pretrial release,
11 except when private bail has been furnished.

12 ~~E.~~ J. Upon an order for pretrial release or release on bond,
13 the person shall be released from custody without undue delay.

14 ~~F.~~ K. The court may require the person to be placed on an
15 electronic monitoring device as a condition of pretrial release.

16 ~~G.~~ L. In instances where an electronic monitoring device has
17 been ordered, the court may impose payment of a supervision fee.
18 Payment of the fee, in whole or according to a court-ordered
19 installment schedule, shall be a condition of pretrial release. The
20 court clerk shall collect the supervision fees.

21 SECTION 2. This act shall become effective November 1, 2023.

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